

RECEIVED
CITY CLERK'S OFFICE

07 DEC -7 PM 2:54

SAN DIEGO, CALIF. *P*Office of
The City Attorney
City of San DiegoMEMORANDUM
MS 59

(619) 533-5800

DATE: December 7, 2007

TO: Honorable Mayor, City Councilmembers, and Office of the City Clerk

FROM: City Attorney

SUBJECT: Item 55 of Tuesday, December 4, 2007, City Council Meeting
Amending the San Diego Municipal Code Relating to Fire Sprinkler Retrofitting
for High-Rise Buildings

INTRODUCTION

Item 55, Amending the San Diego Municipal Code Relating to Fire Sprinkler Retrofitting for High-Rise Buildings, was heard by the City Council on Tuesday, December 4, 2007. Councilmember Faulconer made a motion (1) to introduce the ordinance with the amendments to extend the required compliance date for one year, (2) to ask the Independent Budget Analyst and Mayor where the money would come from should Council decide to install the sprinklers earlier, and (3) to provide the information as part of the budget discussion. (December 5, 2007, Memorandum from the Office of the City Clerk/Sara Richardson).

At the hearing the Mayor's Office indicated 6 votes were required in order for the motion to pass. City Charter Section 99, "Continuing Contracts," states in relevant part:

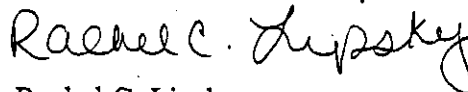
... No contract, agreement or obligation extending for a period of more than five years may be authorized except by ordinance adopted by a two-thirds' majority vote of the members elected to the Council after holding a public hearing which has been duly noticed in the official City newspaper at least ten days in advance. (Emphasis added).

This ordinance does not obligate the City for a period of more than five years. Therefore, a two-thirds' majority vote was not required for the motion to pass. A simple majority of 5 votes was

sufficient. Consequently, the motion as stated above passes. If I can be of further assistance, please do not hesitate to contact me.

MICHAEL J. AGUIRRE, City Attorney

By



Rachel C. Lipsky

cc: Engineering and Capital Projects Department
San Diego Fire Department

**CITY OF SAN DIEGO
MEMORANDUM
533-4000**

DATE: December 5, 2007
TO: CITY ATTORNEY/RACHEL LIPSKY
FROM: Office of the City Clerk/Sara Richardson
SUBJECT: Item 55 of Tuesday, December 4, 2007, Council Meeting

PLEASE NOTE: ORDINANCE COMING BACK FOR THE SECOND
READING ON DECEMBER 18, 2007. PLEASE PROVIDE A.S.A.P.

ITEM-55: Amending the San Diego Municipal Code Relating to Fire Sprinkler Retrofitting for High Rise Building. (Centre City Community Area. District 2.)

STAFF'S RECOMMENDATION:

Introduce the following ordinance:

(O-2008-71) INTRODUCED AS AMENDED; TO BE
ADOPTED TUESDAY, DECEMBER 18, 2007

Introduction of an Ordinance amending Chapter 5, Article 5, Division 10, of the San Diego Municipal Code by amending Section 55.1003, pertaining to Fire Protection and Prevention, to extend the required compliance date for sprinkler retrofits of high rise buildings to January 1, 2013.

STAFF SUPPORTING INFORMATION:

In 1986, the Mayor and City council passed Ordinance Number O-17172 requiring fire sprinkler retrofitting for high rise buildings. Specific exemptions were granted including all Government buildings except for those owned by the City of San Diego. In 1991, the Council extended the deadline for compliance from 1996 to 1999, unless the owner declared their intent to demolish the building by January 1, 2000. In 1995, the City passed resolution number R-286760 declaring the City's intent to demolish the City Administration Building (CAB) prior to January 1, 2000. In 1999, the City of San Diego completed the first phase of the fire sprinkler upgrade at CAB demonstrating the upgrade could be accomplished for significantly less than previously thought.

On June 5, 2001, Ordinance Number O-18946 was adopted extending the deadline for compliance with the Fire Sprinkler Retrofit Ordinance until January 1, 2004. In addition, the City Council authorized a phase funded design build contract to continue with the installation of a fire sprinkler system. Phases III and IV were completed, but funding for the final phase was not identified.

On January 13, 2004, Ordinance Number O-19254 was adopted extending the deadline for compliance with the Fire Sprinkler Retrofitting Ordinance until January 1, 2008.

The current Fire Sprinkler system includes the: backflow valve, pump, transfer switches, standpipe, alarm system, and sprinklers in the basement and on the 10th, 11th, 13th, 14th, and 15th floors. Remaining work includes the: emergency backup generator, additional upgrades to the alarm system, and fire sprinklers in all the elevator lobbies and on the 1st, 2nd, 3rd, 4th, 5th, 6th, 7th, 8th, 9th, and 12th floors. The cost of this work is estimated to be in excess of \$5,000,000.

On July 31, 2007, CCDC issued a request for qualifications to redevelop the Civic Center Complex. Should the redevelopment of the Civic Center Complex proceed, completion of the fire sprinkler system in CAB would not be necessary. Should the proposed redevelopment of the Civic Center Complex not take place, the completion of the final phase of the sprinkler system project would need to be completed. Extending the deadline for compliance with the Fire Protection and Prevention Ordinance to 2013 will allow time for the Mayor evaluate the future plans for CAB and identify the necessary funding and complete the fire sprinkler upgrades if needed.

FISCAL CONSIDERATIONS:

No funding is currently identified.

PREVIOUS COUNCIL and/or COMMITTEE ACTION:

- 1986, the Mayor and City Council passed Ordinance Number O-17172 requiring fire sprinkler retrofitting for high rise buildings.
- 1991, the Mayor and City Council extended the deadline for compliance from 1996 to 1999 \$1,200,000 appropriation for the South Course Renovation through the FY 2006 budget process.
- 2001, Ordinance Number O-18946 was adopted extending the deadline for compliance with the Fire Sprinkler Retrofit Ordinance until January 1, 2004.
- 2004, Ordinance Number O-19254 was adopted extending the deadline for compliance with the Fire Sprinkler Retrofitting Ordinance until January 1, 2008.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS: None.

KEY STAKEHOLDERS AND PROJECTED IMPACTS:

The City of San Diego's City Administration Building is one of the few remaining high rise building without complete fire sprinkler protection in the City of San Diego.

Jarrell/Haas

Staff: Darren Greenhalgh - (619) 533-6600

Rachel Lipsky - Deputy City Attorney

COUNCIL ACTION WAS:

Motion by Faulconer to introduce the ordinance with the amendments to extend the required compliance date for one year; ask the Independent Budget Analyst and Mayor where the money would come from should Council decide to install the sprinklers earlier; and to provide the information as part of the budget discussion.

COUNCIL VOTE WAS:

12368-yea; 4-nay; 57-not present

ELIZABETH S. MALAND

City Clerk

By: Sara Richardson, Deputy

000799



THE CITY OF SAN DIEGO

OFFICE OF THE INDEPENDENT BUDGET ANALYST REPORT

Date Issued: November 28, 2007

IBA Report Number: 07-113

City Council Meeting Date: December 4, 2007

Item Number: 55

Fire Sprinkler Retrofitting for High Rise Buildings

OVERVIEW

On Tuesday, December 4, 2007 the City Council will be asked to consider extending the required compliance date for sprinkler retrofits of high rise buildings to January 1, 2013. The current compliance date is January 1, 2008. If approved, this will be the fourth extension of compliance requiring fire sprinkler retrofitting for high rise buildings in the last 16 years.

The Fire Extinguishing System Section (55.1003) of the San Diego Municipal Code states:

(b) It is unlawful for any owner of a high-rise building to allow any person to occupy any portion of a high-rise building after January 1, 2008, where occupancy has been authorized pursuant to section 55.1003.2.11(a)(4), except where:

1. The occupant is performing construction or maintenance to prevent the high rise building from being in an unsafe condition; or
2. the occupant is performing construction or maintenance to the building related to the installation or maintenance of an automatic fire sprinkler system; or
3. an approved fire sprinkler system has been completely installed.

Office of Independent Budget Analyst

202 C Street, MS 3A • San Diego, CA 92101
Tel (619) 236-6555 Fax (619) 236-6556



Currently, the City Administration Building (CAB) has fire sprinkler systems installed in the basement and five of the 15 floors. If the extension of the compliance date is not approved by the City Council, CAB will not be compliant with the Fire Extinguishing System Section of the Municipal Code. Aside from the obvious, the IBA was not able to identify the specific consequences of not complying with the Municipal Code. In addition, as pointed out in the Mayor's Executive Summary to the City Council, the City Administration Building is one of the few remaining high rise buildings without complete fire sprinkler protection in the City of San Diego.

FISCAL/POLICY DISCUSSION

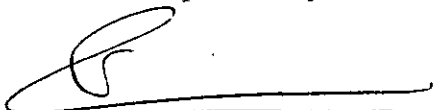
In the Executive Summary, the Mayor's staff recommends extending the compliance date with the Fire Sprinkler Retrofit Ordinance until January 1, 2013 thus keeping CAB compliant with the Municipal Code. The reasons given for the request to extend the compliance date includes the possible redevelopment of the Civic Center Complex and the time needed to identify the necessary funding to complete the fire sprinkler updates. The current cost estimate to complete the installation of fire sprinklers in CAB is \$5.0 million. The time required to complete the project is estimated to be three years. This includes identifying funding, planning, bidding and installation of the project.

On July 31, 2007 the Centre City Development Corporation issued a Request for Qualifications seeking development partners to explore the possible redevelopment of the Civic Center Project. *The IBA is not aware of any updates being provided to the City Council or Council Committee on the status and timeline of the proposed redevelopment.* The IBA agrees that it is not fiscally prudent to expend \$5.0 million to complete a fire sprinkler system in CAB if demolition of the building is expected in the near future. However, it should be noted that in 1995 the Mayor and City Council were in a similar situation as today and decided to comply with the Fire Sprinkler Retrofitting Ordinance by declaring its intent to demolish the City Administration Building prior to January 1, 2000, which never occurred. *With the proposed redevelopment of the Civic Center Complex in its infancy and the timeline for possible approval and construction unknown, extending the installation of the fire sprinkler system another five years continues to be a safety concern.* The City Council needs considerably more information from the Mayor before taking this step.

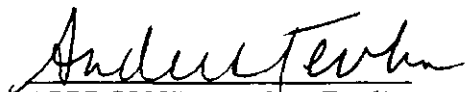
CONCLUSION

In light of the delicate balance of moving forward on this essential project while trying to maintain fiscal prudence the IBA offers the following alternative to the action proposed by the Mayor:

Extend the compliance period one year (instead of five) with the caveat that the Mayor return to the City Council with an update on the proposed redevelopment of the Civic Center Complex that includes a timeline for possible approval and construction of the project. If after a year, the redevelopment of the Civic Center remains uncertain, identify funds in the 2010 Budget to complete the installation of the fire sprinkler system in the City Administration Building.



Jeffrey Sturak
Fiscal & Policy Analyst



APPROVED: Andrea Tevlin
Independent Budget Analyst

000803

REQUEST FOR COUNCIL ACTION

CITY OF SAN DIEGO

1. CERTIFICATE NUMBER
(FOR AUDITOR'S USE)

01/08

50

TO:
CITY ATTORNEY

2. FROM (ORIGINATING DEPARTMENT):

ENGINEERING & CAPITAL PROJECTS

3. DATE:

10/08/2007

4. SUBJECT: FIRE SPRINKLER RETROFITTING FOR HIGH RISE BUILDINGS

5. PRIMARY CONTACT (NAME, PHONE & MAIL STA.)

Darren Greenhalgh, (619) 533-6600, MS 614

6. SECONDARY CONTACT (NAME, PHONE & MAIL STA.)

Afshin Oskoui, (619) 533-3102, MS 614

7. CHECK BOX IF REPORT TO
COUNCIL IS ATTACHED ☐

8. COMPLETE FOR ACCOUNTING PURPOSES

FUND				9. ADDITIONAL INFORMATION / ESTIMATED COST:
DEPT.				None by this action
ORGANIZATION				
OBJECT ACCOUNT				
JOB ORDER				
C.I.P. NUMBER	37-9000.0			
AMOUNT				

10. ROUTING AND APPROVALS

ROUTE (#)	APPROVING AUTHORITY	APPROVAL SIGNATURE	DATE SIGNED	ROUTE (#)	APPROVING AUTHORITY	APPROVAL SIGNATURE	DATE SIGNED
1	ORIGINATING DEPARTMENT	<i>[Signature]</i>	11/6/07	8	DEPUTY CHIEF	<i>[Signature]</i>	
2	EAS	<i>Alison Sherwood</i>	11-8-07	9	COO	<i>Not required</i>	
3				10	CITY ATTORNEY	<i>Rachelde...</i>	11/15/07
4				11	ORIGINATING DEPARTMENT	<i>[Signature]</i>	11/15/07
5					DOCKET COORD: <i>[Signature]</i>	COUNCIL LIAISON: <i>[Signature]</i>	11/19/07
6					COUNCIL PRESIDENT <input type="checkbox"/> SPOB <input type="checkbox"/> <input checked="" type="checkbox"/> CONSENT <input type="checkbox"/> ADOPTION		
7	E&CP DEPARTMENT				<i>[Signature]</i> <input type="checkbox"/> REFER TO: _____	COUNCIL DATE: 12/4/07	

11. PREPARATION OF:

☐ RESOLUTION(S)☒ ORDINANCE(S)☐ AGREEMENT(S)☐ DEED(S)

1. Introduction and adoption of an Ordinance amending Chapter V of the San Diego Municipal Code by amending Article 55.1003.2.11.8 pertaining to Fire protection and prevention, to extend the required compliance date for sprinkler retrofits of high rise buildings to January 1, 2013.

11A. STAFF RECOMMENDATIONS:

Adopt the Ordinance.

12. SPECIAL CONDITIONS:

COUNCIL DISTRICT(S): 2(Faulconer)

COMMUNITY AREA(S): (6) Centre City

ENVIRONMENTAL IMPACT: This activity is categorically Exempt from CEQA pursuant to State CEQA Guidelines, Section 15301

HOUSING IMPACT: None.

OTHER ISSUES: None.

**EXECUTIVE SUMMARY SHEET
CITY OF SAN DIEGO**

DATE ISSUED: REPORT NO:
ATTENTION: Council President and City Council
ORIGINATING DEPARTMENT: Engineering and Capital Projects Department
SUBJECT: Fire Sprinkler Retrofitting for High Rise Buildings
COUNCIL DISTRICT(S): 2 (Faulconer)
CONTACT/PHONE NUMBER: Darren Greenhalgh, (858) 573-5019

REQUESTED ACTION:

Introduction of an Ordinance amending Chapter V of the San Diego Municipal Code by amending Article 55.1003.2.11.8 pertaining to Fire Protection and Prevention, to extend the required compliance date for sprinkler retrofits of high rise buildings to January 1, 2013.

STAFF RECOMMENDATION:

Approve the Ordinance.

EXECUTIVE SUMMARY:

In 1986, the Mayor and City council passed Ordinance Number O-17172 requiring fire sprinkler retrofitting for high rise buildings. Specific exemptions were granted including all Government buildings except for those owned by the City of San Diego. In 1991 the Council extended the deadline for compliance from 1996 to 1999, unless the owner declared their intent to demolish the building by January 1, 2000. In 1995 the City passed resolution number R-286760 declaring the City's intent to demolish the City Administration Building (CAB) prior to January 1, 2000. In 1999 the City of San Diego completed the first phase of the fire sprinkler upgrade at CAB demonstrating the upgrade could be accomplished for significantly less than previously thought.

On June 5, 2001 Ordinance Number O-18946 was adopted extending the deadline for compliance with the Fire Sprinkler Retrofit Ordinance until January 1, 2004. In addition, the City Council authorized a phase funded design build contract to continue with the installation of a fire sprinkler system. Phases III and IV were completed, but funding for the final phase was not identified.

On January 13, 2004 Ordinance Number O-19254 was adopted extending the deadline for compliance with the Fire Sprinkler Retrofitting Ordinance until January 1, 2008.

The current Fire Sprinkler system includes the: backflow valve, pump, transfer switches, standpipe, alarm system, and sprinklers in the basement and on the 10th, 11th, 13th, 14th and 15th floors. Remaining work includes the: emergency backup generator, additional upgrades to the alarm system, and fire sprinklers in all the elevator lobbies and on the 1st, 2nd, 3rd, 4th, 5th, 6th, 7th, 8th, 9th, and 12th floors. The cost of this work is estimated to be in excess of \$5,000,000.

On July 31, 2007, CCDC issued a request for qualifications to redevelop the Civic Center Complex. Should the redevelopment of the Civic Center Complex proceed, completion of the fire sprinkler system in CAB would not be necessary. Should the proposed redevelopment of the Civic Center Complex not take place, the completion of the final phase of the sprinkler system project would need to be completed. Extending the deadline for compliance with the Fire Protection and Prevention Ordinance to 2013 will allow time for the Mayor evaluate the future plans for CAB and identify the necessary funding and complete the fire sprinkler upgrades if needed.

FISCAL CONSIDERATIONS:

000806

No funding is currently identified

PREVIOUS COUNCIL and/or COMMITTEE ACTION:

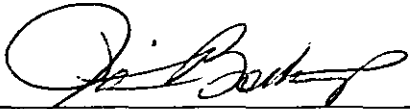
- o 1986, the Mayor and City Council passed Ordinance Number O-17172 requiring fire sprinkler retrofitting for high rise buildings .
- o 1991 the Mayor and City Council extended the deadline for compliance from 1996 to 1999\$1,200,000 appropriation for the South Course Renovation through the FY 2006 budget process.
- o 2001 Ordinance Number O-18946 was adopted extending the deadline for compliance with the Fire Sprinkler Retrofit Ordinance until January 1, 2004
- o 2004 Ordinance Number O-19254 was adopted extending the deadline for compliance with the Fire Sprinkler Retrofitting Ordinance until January 1, 2008

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

None.

KEY STAKEHOLDERS AND PROJECTED IMPACTS:

The City of San Diego's City Administration Building is one of the few remaining high rise building without complete fire sprinkler protection in the City of San Diego.



David Jarrell, Interim Director
Engineering & Capital Projects Department



Richard Haas, Deputy Chief
Public Works

ORDINANCE NUMBER O-_____ (NEW SERIES)

DATE OF FINAL PASSAGE _____

AN ORDINANCE OF THE COUNCIL OF THE CITY OF SAN DIEGO AMENDING CHAPTER 5, ARTICLE 5, DIVISION 10, OF THE SAN DIEGO MUNICIPAL CODE BY AMENDING SECTION 55.1003, PERTAINING TO FIRE PROTECTION AND PREVENTION.

BE IT ORDAINED, by the Council of the City of San Diego, as follows:

Section 1. That Chapter 5, Article 5, Division 10, of the San Diego Municipal Code is amended by amending Section 55.1003, to read as follows:

§55.1003 Fire Extinguishing Systems

1003.1 through 1003.2.11.7 [No change.]

1003.2.11.8 Violations

(a) [No change.]

(b) It is unlawful for any owner of a high-rise building to allow any person to occupy any portion of a high-rise building after January 1, 2009, where occupancy has been authorized pursuant to section 55.1003.2.11.8(a)(4), except where: (1) the occupant is performing minimal maintenance to prevent the high rise building from being in an unsafe condition; or (2) the occupant is performing construction or maintenance to the building related to the installation or maintenance of an automatic fire sprinkler

system; or (3) an approved fire sprinkler system has been completely installed.

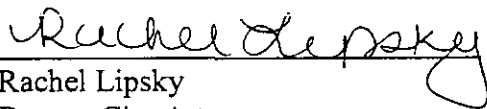
1003.3 [No change.]

Section 2. That a full reading of this ordinance is dispensed with prior to its final passage, a written or printed copy having been available to the City Council and the public a day prior to its final passage.

Section 3. This ordinance shall take effect and be in force on the thirtieth day from and after its passage.

APPROVED: MICHAEL J. AGUIRRE, City Attorney

By


Rachel Lipsky
Deputy City Attorney

RL:mm
11/14/07
12/10/07 REV.COPY
Or.Dept:E&CP
O-2008-71O-
MMS#5563

I hereby certify that the foregoing Ordinance was passed by the Council of the City of San Diego, at this meeting of _____.

ELIZABETH S. MALAND
City Clerk

By _____
Deputy City Clerk

Approved: _____
(date)

JERRY SANDERS, Mayor

Vetoed: _____
(date)

JERRY SANDERS, Mayor

STRIKEOUT ORDINANCE**OLD LANGUAGE: ~~STRIKEOUT~~****NEW LANGUAGE: UNDERLINE**

(O-2008-71)

ORDINANCE NUMBER O-_____ (NEW SERIES)

DATE OF FINAL PASSAGE _____

AN ORDINANCE OF THE COUNCIL OF THE CITY OF SAN
DIEGO AMENDING CHAPTER 5, ARTICLE 5, DIVISION 10,
OF THE SAN DIEGO MUNICIPAL CODE BY AMENDING
SECTION 55.1003, PERTAINING TO FIRE PROTECTION
AND PREVENTION.

§55.1003 Fire Extinguishing Systems

1003.1 through 1003.2.11.7 [No change.]

1003.2.11.8 Violations

- (a) [No change.]
- (b) It is unlawful for any owner of a high-rise building to allow any person to occupy any portion of a high-rise building after January 1, ~~2008~~ 2013, where occupancy has been authorized pursuant to section 55.1003.2.11.8(a)(4), except where: (1) the occupant is performing minimal maintenance to prevent the high rise building from being in an unsafe condition; or (2) the occupant is performing construction or maintenance to the building related to the installation or maintenance of an automatic fire sprinkler

000812

system; or (3) an approved fire sprinkler system has been
completely installed.

1003.3 [No change.]

RL:mm
11/15/07
Or.Dept:E&CP
O-2008-71
MMS#5563